

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND**

CHRISTOPHER JOHNSON,
Plaintiff

v.

Civil Action No. 1:19-cv-00283-JJM-PAS

**CITY OF PROVIDENCE, by and through its
Treasurer, James J. Lombardi, III, alias,
and, MATTHEW SHERIDAN, alias,
individually and in his official
capacity as a Providence Police officer,**

Defendants

ANSWER OF DEFENDANT CITY OF PROVIDENCE

Introductory Statement

1. No answer required.
2. Defendant denies generally and specifically the allegations contained in Paragraph 2 of Plaintiff's Complaint.
3. Defendant denies generally and specifically the allegations contained in Paragraph 3 of Plaintiff's Complaint.

II Parties

4. Defendant neither admits nor denies but is without knowledge or information sufficient to form an opinion as to the truth of the allegations contained in Paragraph 4 of Plaintiff's Complaint and leaves Plaintiff to their proof thereof.
5. Defendant admits the allegations contained in Paragraph 5 of Plaintiff's Complaint.
6. No answer required of this defendant.

III Jurisdiction

7. Defendant admits the allegations contained in Paragraph 7 of Plaintiff's Complaint.

IV. Venue

8. Defendant admits the allegations contained in Paragraph 8 of Plaintiff's Complaint.

V. Material Facts: Walking While Black

9. Defendant neither admits nor denies but is without knowledge or information sufficient to form an opinion as to the truth of the allegations contained in Paragraph 9 of Plaintiff's Complaint and leaves Plaintiff to their proof thereof.
10. Defendant neither admits nor denies but is without knowledge or information sufficient to form an opinion as to the truth of the allegations contained in Paragraph 10 of Plaintiff's Complaint and leaves Plaintiff to their proof thereof.
11. Defendant neither admits nor denies but is without knowledge or information sufficient to form an opinion as to the truth of the allegations contained in Paragraph 11 of Plaintiff's Complaint and leaves Plaintiff to their proof thereof.
12. Defendant neither admits nor denies but is without knowledge or information sufficient to form an opinion as to the truth of the allegations contained in Paragraph 12 of Plaintiff's Complaint and leaves Plaintiff to their proof thereof.
13. Defendant neither admits nor denies but is without knowledge or information sufficient to form an opinion as to the truth of the allegations contained in Paragraph 13 of Plaintiff's Complaint and leaves Plaintiff to their proof thereof.
14. Defendant neither admits nor denies but is without knowledge or information sufficient to form an opinion as to the truth of the allegations contained in Paragraph 14 of Plaintiff's Complaint and leaves Plaintiff to their proof thereof.
15. Defendant neither admits nor denies but is without knowledge or information sufficient to form an opinion as to the truth of the allegations contained in Paragraph 15 of Plaintiff's Complaint and leaves Plaintiff to their proof thereof.
16. Defendant neither admits nor denies but is without knowledge or information sufficient to form an opinion as to the truth of the allegations contained in Paragraph 16 of Plaintiff's Complaint and leaves Plaintiff to their proof thereof.
17. Defendant neither admits nor denies but is without knowledge or information sufficient to form an opinion as to the truth of the allegations contained in Paragraph 17 of Plaintiff's Complaint and leaves Plaintiff to their proof thereof.
18. Defendant admits the allegations contained in Paragraph 18 of Plaintiff's Complaint.
19. Defendant denies generally and specifically the allegations contained in Paragraph 19 of Plaintiff's Complaint.

20. Defendant neither admits nor denies but is without knowledge or information sufficient to form an opinion as to the truth of the allegations contained in Paragraph 20 of Plaintiff's Complaint and leaves Plaintiff to their proof thereof.
21. Defendant neither admits nor denies but is without knowledge or information sufficient to form an opinion as to the truth of the allegations contained in Paragraph 21 of Plaintiff's Complaint and leaves Plaintiff to their proof thereof.
22. Defendant neither admits nor denies but is without knowledge or information sufficient to form an opinion as to the truth of the allegations contained in Paragraph 22 of Plaintiff's Complaint and leaves Plaintiff to their proof thereof.
23. Defendant neither admits nor denies but is without knowledge or information sufficient to form an opinion as to the truth of the allegations contained in Paragraph 23 of Plaintiff's Complaint and leaves Plaintiff to their proof thereof.
24. Defendant neither admits nor denies but is without knowledge or information sufficient to form an opinion as to the truth of the allegations contained in Paragraph 24 of Plaintiff's Complaint and leaves Plaintiff to their proof thereof.
25. Defendant neither admits nor denies but is without knowledge or information sufficient to form an opinion as to the truth of the allegations contained in Paragraph 25 of Plaintiff's Complaint and leaves Plaintiff to their proof thereof.
26. Defendant neither admits nor denies but is without knowledge or information sufficient to form an opinion as to the truth of the allegations contained in Paragraph 26 of Plaintiff's Complaint and leaves Plaintiff to their proof thereof.
27. Defendant neither admits nor denies but is without knowledge or information sufficient to form an opinion as to the truth of the allegations contained in Paragraph 27 of Plaintiff's Complaint and leaves Plaintiff to their proof thereof.
28. Defendant admits the allegations contained in Paragraph 28 of Plaintiff's Complaint.
29. Defendant denies generally and specifically the allegations contained in Paragraph 29 of Plaintiff's Complaint.
30. Defendant neither admits nor denies but is without knowledge or information sufficient to form an opinion as to the truth of the allegations contained in Paragraph 30 of Plaintiff's Complaint and leaves Plaintiff to their proof thereof.
31. Defendant admits the allegations contained in Paragraph 31 of Plaintiff's Complaint.

- 32. Defendant neither admits nor denies but is without knowledge or information sufficient to form an opinion as to the truth of the allegations contained in Paragraph 32 of Plaintiff's Complaint and leaves Plaintiff to their proof thereof.
- 33. Defendant neither admits nor denies but is without knowledge or information sufficient to form an opinion as to the truth of the allegations contained in Paragraph 33 of Plaintiff's Complaint and leaves Plaintiff to their proof thereof.
- 34. Defendant neither admits nor denies but is without knowledge or information sufficient to form an opinion as to the truth of the allegations contained in Paragraph 34 of Plaintiff's Complaint and leaves Plaintiff to their proof thereof.
- 35. Defendant neither admits nor denies but is without knowledge or information sufficient to form an opinion as to the truth of the allegations contained in Paragraph 35 of Plaintiff's Complaint and leaves Plaintiff to their proof thereof.

Municipal Liability – Custom and Practice of Racial Profiling

- 36. Defendant denies generally and specifically the allegations contained in Paragraph 36 of Plaintiff's Complaint.
- 37. Defendant denies generally and specifically the allegations contained in Paragraph 37 of Plaintiff's Complaint.
- 38. Defendant denies generally and specifically the allegations contained in Paragraph 38 of Plaintiff's Complaint.
- 39. Defendant denies generally and specifically the allegations contained in Paragraph 39 of Plaintiff's Complaint.
- 40. Admits he is a defendant denies as to the remaining allegation.

Municipal Liability – Custom and Practice of Failure to Discipline

- 41. Defendant denies generally and specifically the allegations contained in Paragraph 41 of Plaintiff's Complaint.
- 42. Defendant denies generally and specifically the allegations contained in Paragraph 42 of Plaintiff's Complaint.
- 43. Defendant denies generally and specifically the allegations contained in Paragraph 43 of Plaintiff's Complaint.
- 44. Defendant denies generally and specifically the allegations contained in Paragraph 44 of Plaintiff's Complaint.

45. Defendant neither admits nor denies but is without knowledge or information sufficient to form an opinion as to the truth of the allegations contained in Paragraph 45 of Plaintiff's Complaint and leaves Plaintiff to their proof thereof.
46. Defendant neither admits nor denies but is without knowledge or information sufficient to form an opinion as to the truth of the allegations contained in Paragraph 46 of Plaintiff's Complaint and leaves Plaintiff to their proof thereof.
47. Defendant neither admits nor denies but is without knowledge or information sufficient to form an opinion as to the truth of the allegations contained in Paragraph 47 of Plaintiff's Complaint and leaves Plaintiff to their proof thereof.
48. Defendant denies generally and specifically the allegations contained in Paragraph 48 of Plaintiff's Complaint.
49. Defendant denies generally and specifically the allegations contained in Paragraph 49 of Plaintiff's Complaint.
50. Defendant denies generally and specifically the allegations contained in Paragraph 50 of Plaintiff's Complaint.

VII. Claims For Relief

51. Defendant hereby incorporates by reference its answers to Paragraphs 1 through 50 of Plaintiff's Complaint as it fully restated herein.

COUNT ONE

False Arrest in Violation of the Fourth Amendment and Actionable Under 42 U.S.C. § 1983

52. Defendant denies generally and specifically the allegations contained in Paragraph 52 of Plaintiff's Complaint.

COUNT TWO

False Arrest and False Imprisonment in Violation of Article 1, §6 of the Rhode Island Constitution

53. Defendant denies generally and specifically the allegations contained in Paragraph 53 of Plaintiff's Complaint.

COUNT THREE

Excessive Force in Violation of the Fourth Amendments Actionable Through 42 U.S.C. § 1983

54. Defendant denies generally and specifically the allegations contained in Paragraph 54 of Plaintiff's Complaint.

COUNT FOUR

Excessive Force in Violation of Article 1, §6 of the Rhode Island Constitution

55. Defendant denies generally and specifically the allegations contained in Paragraph 55 of Plaintiff's Complaint.

COUNT FIVE

***Denial of Equal Protection in Violation of the Fourteenth Amendment,
Actionable Through 42 U.S.C. § 1983***

56. Defendant denies generally and specifically the allegations contained in Paragraph 56 of Plaintiff's Complaint.

COUNT SIX

Denial of Equal Protection in Violation of Article 1, §2 of the Rhode Island Constitution

57. Defendant denies generally and specifically the allegations contained in Paragraph 57 of Plaintiff's Complaint.

COUNT SEVEN

***Malicious Prosecution in Violation of the Fourth, Fifth and Fourteenth
Amendments, Actionable Through 42 U.S.C. § 1983***

58. Defendant denies generally and specifically the allegations contained in Paragraph 58 of Plaintiff's Complaint.

COUNT EIGHT

Common Law Assault

59. No answer required of this defendant.

COUNT NINE

Common Law Battery

60. No answer required of this defendant.

COUNT TEN

Common Law False Arrest

61. No answer required of this defendant.

COUNT ELEVEN

Common Law Malicious Prosecution

62. No answer required of this defendant.

COUNT TWELVE
Civil Rights Act of 1990, R.I. Gen. Law § 42-112-1 et seq.

63. No answer required of this defendant.

AFFIRMATIVE DEFENSES

1. That any injury or damage suffered by the Plaintiff was caused solely by reason of the Plaintiff's wrongful acts and conduct.
2. That the actions of the Defendant and/or Defendant's agents in all respects were reasonable, proper and legal.
3. To the extent that Plaintiff suffered any damages, such damages were caused or contributed to by the Plaintiff's negligence.
4. To the extent that Plaintiff suffered any damages, the risk of such damages were assumed by the Plaintiff.
5. The Defendant's agents acted, at all times material hereto, in good faith.
6. The Defendant's agents had legal justification for all its actions relative to the Plaintiff.
7. Defendant is limited in liability in the sum of One Hundred Thousand Dollars (\$100,000) by R.I. General Law § 9-31-3.
8. The actions of the Defendant and/or the Defendant's agents were lawful and proper and probable cause existed for the arrest of the Plaintiff.
9. The City of Providence does not have a policy of using excessive force.

Prayers for Relief

WHEREFORE, Defendant prays that Plaintiff's Complaint be denied and dismissed, that Judgment enter for Defendant, and that Defendant be granted costs and attorney's fees.

VIII. Demand for Jury Trial

Defendant hereby demands a trial by jury on all counts so triable.

CITY OF PROVIDENCE,

By its Attorney,

JEFFREY DANA
City Solicitor

/s/ Kevin F. McHugh
Kevin F. McHugh (#3927)
Senior Assistant City Solicitor
Providence Law Department
444 Westminster Street, Suite 220
Providence, RI 02903
(401) 680-5333
(401) 680-5520 (Fax)
Kmchugh@providenceri.gov

CERTIFICATION

I hereby certify that I have filed the within with the United States District Court on this 9th day of September, 2019 that a copy is available for viewing and downloading via the ECF system, and that I have caused a copy to be sent to:

Shannah Kurland, Esq.
Skurland.esq@gmail.com

Michael J. Colucci, Esq.
mjc@olenn-penza.com

/s/ Kevin F. McHugh